



Chief
Surveillance
Commissioner

13 June 2017

OSC Inspection

Dear *Crig Executive,*

I enclose a copy of the report dated 31 May 2017 prepared by His Honour Brian Barker CBE.,QC., Assistant Surveillance Commissioner, following his inspection of the arrangements made by the Council and the Service to secure compliance with the statutory provisions which govern the use of covert surveillance.

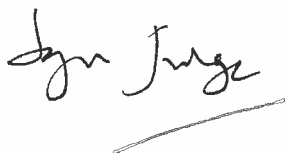
I have studied the report and endorse it.

The Council has continued to use its statutory powers on a regular basis, and is likely to continue to do so if and when the need arises. The report highlights a number of potential vulnerabilities, which ought to be addressed, and which when addressed will reduce the risk of unlawful surveillance. The formal recommendations are self-explanatory, and given the commitment of the relevant officials to the maintenance of good standards, should present neither undue difficulty, nor any significant depletion of reduced resources.

It would be as well to arrange the refresher session suggested in the fourth recommendation in the near future. The refresher session itself should include attention to the recommendations, including in particular the amendments to the Policy document with a clear message explaining their significance. The other feature on which attention should be focused is discussed in paragraphs 11 of the report, and is most likely to arise from investigations directed to the protection of children and vulnerable adults. Officers of the Council exercising these difficult and delicate responsibilities may, without training and awareness of the statutory provisions, find that, notwithstanding they are acting in good faith, they have acted unlawfully. This is a potential problem which is arising in different Councils throughout the country. I suspect that this form of investigation will increase significantly during the next few years. The Council needs to prepare itself and its employees for these developments. All that said, I specifically underline that the individual case referred to in paragraph 11 seems to have been sensibly handled.

No specific issue arises in relation to the Fire and Rescue Service. I applaud the provision of induction training described in paragraph 25.

Yours sincerely



Chief Surveillance Commissioner

Peter G Clark Esq
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OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

**Oxfordshire County Council and Oxfordshire Fire and
Rescue Service**

25th May 2017

**Assistant Surveillance Commissioner:
His Honour Brian Barker CBE, QC**

DISCLAIMER

This report contains the observations and recommendations identified by an individual surveillance inspector, or team of surveillance inspectors, during an inspection of the specified public authority conducted on behalf of the Chief Surveillance Commissioner.

The inspection was limited by time and could only sample a small proportion of covert activity in order to make a subjective assessment of compliance. Failure to raise issues in this report should not automatically be construed as endorsement of the unreported practices.

The advice and guidance provided by the inspector(s) during the inspection could only reflect the inspectors' subjective opinion and does not constitute an endorsed judicial interpretation of the legislation. Fundamental changes to practices or procedures should not be implemented unless and until the recommendations in this report are endorsed by the Chief Surveillance Commissioner.

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Office of Surveillance
Commissioners

The Rt. Hon The Lord Judge
Chief Surveillance Commissioner,
Office of Surveillance Commissioners,
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May 31st, 2017.

OXFORDSHIRE COUNTY COUNCIL and OXFORDSHIRE FIRE and RESCUE SERVICE.

Inspection: May 25th, 2017.

Inspector: His Honour Brian Barker CBE, Q.C.
Assistant Commissioner

INSPECTION REPORT.

Introduction:

1. Oxford County Council serves over 600,000 residents as the upper tier local authority for the non-metropolitan County of Oxford; and now has a staff of around 4500 having shed some 2000 since 2010.
2. The council consists of sixty-three councillors and no party has overall control. The authority operates with a leader and nine cabinet members holding individual portfolios. An annually elected Chairman acts as the ceremonial head.
2. The Chief Executive Peter G. Clark has held the post for approaching two years and was formerly County Solicitor and Head of Law and Governance. He is supported by a Corporate Leadership Team consisting of three Strategic Directors and six Directors.
3. The annual budget is in the region of £500m and the authority has the task of having to find savings of a £25m over the next two years in addition to significant recent reductions.
4. The authority's offices are at County Hall, New Road, Oxford OX1 1ND, and they also administer the RIPA functions of the Oxfordshire Fire and Rescue Service.
5. The last inspection by Kevin Davis, Surveillance Commissioner, on May 29th 2014 was favourable. He noted in the period to his inspection a total

of twenty-eight authorisations for directed surveillance, although only twelve since the enactment of The Protection of Freedoms Act 2012. They were of a good standard, apart from the cancellations where the details were scant. The three *CHIS* operations by Trading Standards Officers were also of a good standard

Past Recommendation:

6. The single recommendation was that “ the Council ensures compliance with OSC guidelines in relation to the cancellations of authorisations.”
7. This area still presents something of a problem (see para 15)

Inspection:

8. I was warmly welcomed by Nick Graham, Director of Law and Governance, Monitoring Officer and Senior Responsible Officer; and by Richard Webb, Head of Community Protection whose duties include responsibility for Trading Standards, and who is the RIPA Co-ordinating Officer for both the authority and the Fire and Rescue Service. Both officers have considerable *RIPA* experience. Together we were able to have a useful and wide ranging discussion.
9. It was quickly apparent that there was a good understanding by both of the practical aspects of *RIPA* implementation and usefulness of the tool as an ‘insurance policy’ when finally presenting evidence in court. We considered the social changes in the last few years and the difficulties of the allocation of resources when faced with an ever-shrinking budget.
10. Applications had decreased for much the same reasons that had affected many other authorities. The raising of the sentencing threshold, and the use of other agencies had all played their part, and a further major factor was the increasing availability and use of effective overt methods message distribution and of information gathering.
11. Other topics covered included the potential problems that could arise from the use of personal and social media sites to further investigations and follow up complaints, and the need for officers to be alert to the necessity of following *RIPA* procedures if crossing the line consciously or otherwise. This was an area that had also been recognised by Children’s Services and careful attention has been given to one recent case where the attraction of covert surveillance was considered but not pursued where in the consideration of removing a child from the mother’s care, the establishing of regular male visiting was an important factor but not a crime.
12. During the course of my inspection I was also able to meet:
 - Peter G. Clark, the Chief Executive, and

- Simon Long , the Chief Fire Officer

and I was able to have a useful conversations with both officers.

Examination of Central Records and forms:

13. The Central Records are kept in standardised spreadsheet form by Richard Webb, and he has devised a link system to give swift access to more detailed information relating to each file, and a 'lock-down' facility so that forms cannot be altered. Originals are filed securely. The council's policy and other guidance are easily accessible, as are the current forms. A suggestion to include hyperlinks on the intranet to the Home Office 2014 Guides and the OSC 2016 Procedures and Guidance was readily accepted. Trading Standards have developed a separate and more tailored set of programmes and advice over recent years. This included a Work Instruction Manual designed to encourage good practice and consistency.
14. I examined the eight applications made since the last inspection. One (2014/02) was for a trading standards officer acting as a *CHIS* to investigate a complaint of under the counter sales of 'legal highs' at two outlets, and four others were for operations with juveniles to test under age sales of cigarettes. A further *CHIS* application to follow up advertisements for counterfeit mobile phones was withdrawn before seeking judicial approval as a result of Thames Valley Police taking over the investigation (2014/04). Two others: to attempt to film a rogue builder continuing to take advantage of an elderly woman living on her own, and observation of the physical activities of a claimant for compensation for alleged injuries, failed to produce any useful evidence.
15. It was felt by the officers that new/inexperienced benches, perhaps due to turnover, had made heavy weather of several juvenile 'test purchase' applications, and that information could be improved. Some years ago a 'briefing note' had been prepared for the local benches (and approved at a previous Inspection), and it seems to me that an updated version setting the responsibilities of each side, the council's health policy and attitude to juvenile smoking and quoting the higher than average local statistics, might be useful to help prepare the ground for the future.
16. In all cases the applications by the investigating officers and the approval by the Authorising Officer were of proper standard. It was disappointing, however, to note that some cancellations was insufficient and in several cases missed completely. Richard Webb accepted responsibility for these oversights and the resulting lowering of otherwise good standards, and it would be dealt with properly in future.

See recommendation

RIPA Policy and Management Structure:

17. Policy and Procedures are set out in three documents. They are easy to follow and reviewed annually. The outline 'Guidance' document consists of three and a half pages including a reasonably comprehensive section on the care needed in using social media sites to assist in gathering evidence. The document provides the reader with a focused background to *RIPA* and gives some examples of where surveillance requires authorisation. Several minor suggestions were accepted including adding an indication of where more detailed guidance can be found on the internet, and a cross reference to implementation procedure in the 'Policy' document.
18. The 'Policy' document, consisting of eight pages, sets out the basic requirements for *RIPA* compliance, including the use of *CHIS*. The only suggested additions were to add more emphasis on identifying and dealing with any resulting collateral intrusion and the addition in the appendix of standard flow charts of the overall process and the application to the Magistrates' Court.
19. The Authorising Officers, set out in the appendix, were the Chief Executive, the County Solicitor and the Trading Standards and Community Safety Manager, with a 'named substitute': Lorna Baxter. This is an area that should be reconsidered. The Chief Executive would to continue to be available to deal with the rare sensitive and juvenile matters. It is better practice in order to maintain the independent supervisory role, for the Senior Responsible officer not to authorise (see para 287 of OSC Procedures and Guidance). I recommend that Richard Webb should be joined by Lorna Baxter to provide an alternative and backup.
20. The third document entitled 'Breach Policy' sets out in short form the appropriate procedure.

see recommendation

Training:

21. Training in the past has been given on an 'ad hoc' and personal basis by Richard Webb. *RIPA* features as part of the induction training for new managers. Additionally the intranet and an inward facing service called 'Yammer' are used, when appropriate, to pass on updates and relevant information. The intranet also has a section covering Corporate Governance Responsibilities which includes a section on *RIPA* procedure.
22. The trading standards team have completed the Level 7 Advanced Professional Certificate in Investigative Practice which included *RIPA* information, and I have seen the retained course material provided by Lafoje Ltd.; and matters of legal interest to the trading standards department, including *RIPA*, are circulated.

See recommendation

Councillors

23. Oversight is provided by the Audit Committee and the last report on activity and policy on use was presented by the Director of Law and Governance in September 2016. There was quite a large turnover of elected members as a result of elections last year and Nick Graham encourages queries so as to maintain awareness.

CCTV

24. The County Council does not operate a CCTV system, although there is some security camera coverage on the council premises.

Oxfordshire Fire and Rescue Service

25. OFRS has twenty-four stations and 32 engines, and collaborates with Berkshire Fire and Rescue, sharing their control centre. It is not a free-standing public authority and any possible covert operation would be conducted through Richard Webb or Thames Valley Police. Richard Webb conducts induction training on regulatory/RIPA matters.

Conclusions

33. Although there has been less use since the last inspection, there is no reluctance to use the tool when appropriate and the responsible officers have considerable experience and focus in this area, despite having to cope with depleting resources. It was apparent that there is a clear commitment and enthusiasm to maintaining proper standards of supervision and awareness, and to be ready when the occasion demands.
34. Finally, I would like to thank Richard Webb for organizing my visit and all the officers for their constructive assistance

Recommendations:

28. *i: to ensure that all future cancellations give the appropriate information and are completed as required*
- ii: to incorporate the minor, agreed amendments in the Policy documents*
- iii: to create a further Authorising Officer*

iv: to set up a refresher session in the near future for all potential RIPA users and Authorising Officers (or share the task with a neighbouring authority).

Brian Barker, Assistant Surveillance Commissioner.